

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 9376

IN THE MATTER OF:

Served March 6, 2006

Application of ROLIFA INC. for a)	Case No. AP-2005-172
Certificate of Authority --)	
Irregular Route Operations)	

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a seating capacity of less than 16 persons only, including the driver. The application is unopposed.

The Compact, Title II, Article XI, Section 7(a), authorizes the Commission to issue a certificate of authority if it finds that the proposed transportation is consistent with the public interest and that the applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission. If the applicant does not make the required showing, the application must be denied under Section 7(b).

An applicant for a certificate of authority must establish financial fitness, operational fitness, and regulatory compliance fitness.¹ A determination of compliance fitness is prospective in nature.² The purpose of the inquiry is to protect the public from those whose conduct demonstrates an unwillingness to operate in accordance with regulatory requirements.³ Past violations do not necessarily preclude a grant of authority but permit the inference that violations will continue.⁴

Applicant's president, Olufemi Alufa, once controlled Adonai Ventures, Inc., which held WMATC Certificate No. 744 from February 13, 2003, to January 28, 2004, when it was revoked in Order No. 7696 for Adonai's willful failure to comply with the Commission's insurance regulation, Regulation No. 58.⁵ Order No. 7696 gave Adonai thirty days to remove its WMATC number from its vehicle(s), file an affidavit with the Commission verifying removal, and surrender Certificate No. 744.

¹ *In re Abdul Aziz Jallow, t/a Right Way Transp.*, No. AP-03-109, Order No. 7576 (Dec. 2, 2003).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *In re Adonai Ventures Inc.*, No. MP-03-170, Order No. 7696 (Jan. 28, 2004). Applicant's president identified himself as Folorunso Olufemi Alufa in connection with the application of Adonai Ventures Inc. in 2002.

Adonai did not comply. In addition Adonai neither paid the \$100 annual fee for 2004 nor filed its annual report for 2003, which were both outstanding when Certificate No. 744 was revoked.⁶

The history of Certificate No. 744 has a bearing on this application because the past conduct of an applicant's owners and officers is relevant to a determination of applicant's compliance fitness.⁷ Accordingly, the initial order in this proceeding, Order No. 9118, served November 8, 2005, directed applicant to explain why the Commission should not find applicant unfit given the failure of applicant's president to ensure Adonai's compliance with Commission requirements. The order also directed applicant to verify in accordance with Commission Rule No. 28 that Adonai ceased operating as of December 2, 2003, the date Certificate No. 744 was automatically suspended. Inasmuch as Adonai's tariff contained rates for service rendered to clients of the District of Columbia Department of Health, Medical Assistance Administration, (DC Medicaid), such verification shall include confirmation from DC Medicaid.

Mr. Alufa has filed an affidavit stating that Adonai has not performed any transportation for DC Medicaid since December 2, 2003. The affidavit is corroborated by DC Medicaid's agent for processing carrier invoices, ACS State Healthcare. Mr. Alufa's affidavit, however, does not verify that Adonai ceased all operations within the jurisdiction of this Commission, just DC Medicaid operations. In addition, Adonai has yet to pay its annual fee for 2004, file its annual report for 2003, and comply with the requirements of Order No. 7696, and applicant has not offered any explanation as to why the Commission should find applicant fit as to regulatory compliance given the failure of applicant's president to cure Adonai's noncompliance with the aforementioned requirements.

Under the circumstances, we cannot say that applicant has met its burden of proof on the issue of regulatory compliance fitness.

THEREFORE, IT IS ORDERED that the application of Rolifa Inc. for a certificate of authority, irregular route operations, is hereby denied without prejudice.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES AND SMITH:



William S. Morrow, Jr.
Executive Director

⁶ Id.

⁷ In re Nevah Transports, LLC, No. AP-02-121, Order No. 7001 (Jan. 21, 2003).